

Contributions

Federal Election Commission

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Introduction

The Federal Election Campaign Act (the Act) places monetary limits on contributions to support candidates for federal office and prohibits contributions from certain sources. This brochure discusses contribution limits, describes the various prohibitions on contributions and explains how a committee should handle contributions that appear to be illegal. Citations refer to Federal Election Commission regulations, contained in title 11 of the Code of Federal Regulations (11 CFR).¹ If you have any questions after reading this brochure, please call the Commission in Washington, DC: 800/424-9530 (toll free), 202/694-1100 (local) or 202/219-3336 (for hearing impaired).

Contribution Limits

Under the Act, individuals and groups are limited in the amounts they may contribute to candidates for federal office and to the political committees which support them. 11 CFR 110.1, 110.2, and 110.3. The limitations apply to any type of contribution, including contributions of money, contributions of goods or services, loans, endorsements of loans, etc.² Political committees may not retain contributions that exceed the donor's contribution limit. 11 CFR 110.9. (See the section "Handling Illegal Contributions," which appears later in this brochure.)

Certain contribution limits are indexed for inflation in odd-numbered years. These limits include contributions made by individuals and nonmulticandidate committees to federal candidates and national party committees, the individual biennial limit and the special limit afforded to the national party committees to support Senate candidates. The Commission will announce the amount of the adjusted contribution limits in the *Federal Register* and on the FEC web site at www.fec.gov. 11 CFR 110.17(e).

The chart below shows the specific contribution limits for 2011-2012.

¹ The reader should not rely solely on this brochure but should also consult the Federal Election Campaign Act and Commission Regulations.

² Volunteering time on behalf of a candidate or political committee is not considered a contribution. 11 CFR 100.74.

Chart on Contribution Limits for 2011-2012

| | To each candidate or candidate committee per election | To national party committee per calendar year | To state, district & local party committee per calendar year | To any other political committee per calendar year ³ | Special Limits |
|---|---|---|--|---|--|
| Individual may give | \$2,500* | \$30,800* | \$10,000 (combined limit) | \$5,000 | \$117,000* overall biennial limit: <ul style="list-style-type: none"> • \$46,200* to all candidates • \$70,800* to all PACs and parties⁴ |
| National Party Committee may give | \$5,000 | No limit | No limit | \$5,000 | \$43,100* to Senate candidate per campaign ⁵ |
| State, District & Local Party Committee may give | \$5,000 (combined limit) | No limit | No limit | \$5,000 (combined limit) | No limit |
| PAC (multicandidate)⁶ may give | \$5,000 | \$15,000 | \$5,000 (combined limit) | \$5,000 | No limit |
| PAC (not multicandidate) may give | \$2,500* | \$30,800* | \$10,000 (combined limit) | \$5,000 | No limit |
| Authorized Campaign Committee may give | \$2,000 ⁷ | No limit | No limit | \$5,000 | No limit |

* These contribution limits are indexed for inflation in odd-numbered years.

³ A contribution earmarked for a candidate through a political committee counts against the original contributor's limit for that candidate. In certain circumstances, the contribution may also count against the contributor's limit to the PAC. 11 CFR 110.6. See also 11 CFR 110.1(h).

⁴ No more than \$46,200 of this amount may be contributed to state and local party committees and PACs.

⁵ This limit is shared by the national committee and the national Senate campaign committee.

⁶ A multicandidate committee is a political committee with more than 50 contributors which has been registered for at least 6 months and, with the exception of state party committees, has made contributions to 5 or more candidates for federal office. 11 CFR 100.5(e)(3).

⁷ A federal candidate's authorized committee(s) may contribute no more than \$2,000 per election to another federal candidate's authorized committee(s). 11 CFR 102.12 (c)(2).

Election Limits

The limits on contributions to a candidate committee apply separately to each election in which the candidate participates. (Primaries, runoffs and general elections are considered separate elections, with separate contribution limits. 11 CFR 100.2(a).) To avoid making an inadvertent excessive contribution, the Commission strongly encourages contributors to designate their contributions to a candidate by writing the name of the specific election on the check or by attaching a signed statement with the same information.

An undesignated contribution automatically applies to the candidate's upcoming election. 11 CFR 110.1(b)(2)(ii). For example, an undesignated contribution made⁸ after the candidate's primary but before the general election counts against an individual's limit for the general. An undesignated contribution made after the general election counts against the limit for the next election in which the candidate runs for federal office.

If a contributor wants a contribution to count against an election other than the candidate's upcoming election, the donor should designate the election on the check or in an accompanying signed note.⁹

Biennial Limit for Individuals

Individuals alone are subject to a biennial limit on contributions made to federal candidates, party committees and political action committees (PACs). 11 CFR 110.5. Within this biennial limit on total contributions, an individual may not exceed the specific limits placed on contributions to different types of committees, as illustrated in the contribution limits chart on page 2 of this brochure.

The biennial limit runs for a two-year period beginning in January of the odd-numbered year to December 31 of the even-numbered year. For additional information on this special limit, consult the FEC brochure, "The Biennial Contribution Limit."

Prohibited Contributions

The Act prohibits certain contributions made in connection with or for the purpose of influencing federal elections. The prohibitions listed below apply to contributions received and made by political committees. Note that the prohibitions apply to all contributions, regardless of:

- What type of contribution it is (gift of money, in-kind contribution, loan and so on);
- Whether it is solicited; and
- How it is ultimately used (such as for advertising, office supplies or independent expenditures¹⁰).

Corporations, Labor Organizations and National Banks

Contributions made from the treasuries of corporations, labor organizations and national banks are prohibited. Additionally, national banks and federally chartered corporations may not

⁸ A contribution is "made" when the contributor relinquishes control over it. If the contributor hand delivers a contribution to a campaign, the contribution is made on the delivery date. If mailed, a contribution is made on the date of the postmark. 11 CFR 110.1(b)(6).

⁹ For information on redesignations, see the "Excessive Contributions" section later in this brochure.

¹⁰ An independent expenditure is an expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate for federal office that is not made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his/her authorized committees or agents. 11 CFR 100.16.

make contributions in connection with any election, including state and local elections. Contributions may, however, be made from separate segregated funds (also called political action committees or PACs) established by corporations, labor organizations, national banks, and incorporated membership organizations. 11 CFR 114.2 and 114.5.

Government Contractors

Contributions from federal government contractors are prohibited. The prohibition applies to contributions from the personal or business funds of individuals or sole proprietors who have entered into a contract with the federal government. It does not apply, however, to personal contributions by employees, partners, shareholders or officers of businesses with government contracts; nor does it apply to separate segregated funds established by corporations or labor organizations with government contracts. 11 CFR 115.

Foreign Nationals

Contributions and donations may not be solicited,¹¹ accepted, or received from, or made directly or indirectly by, foreign nationals who do not have permanent residence in the United States (i.e., those without green cards). This prohibition encompasses all US elections; including federal, state and local elections. 11 CFR 110.20(b).

Cash Contributions

Contributions of cash (currency) which in the aggregate exceed \$100 from one person are prohibited. If a committee receives a cash contribution exceeding \$100, it must promptly return the excess amount to the contributor. If an anonymous cash contribution over \$50 is received, the amount in excess of \$50 must be used for some purpose unrelated to federal elections. 11 CFR 110.4(c).

Contributions in the Name of Another

Contributions made by one person in the name of another are prohibited. No person may knowingly permit the use of his or her name to effect such a contribution. It is also prohibited to knowingly assist someone in making or to accept a contribution in the name of another. It is also unlawful to knowingly permit the use of one's name to effect a contribution in the name of another or to help someone make or accept such a contribution. 11 CFR 110.4(b).

Handling Illegal Contributions

The treasurer of a committee is responsible for ensuring that all contributions are lawful. 11 CFR 103.3(b). If the treasurer has reason to suspect that a contribution is excessive or prohibited, he or she must, within 10 days of receiving the contribution, either return the contribution to the donor or deposit the contribution. 11 CFR 103.3(a). If the contribution is deposited, the treasurer must:

- Maintain sufficient funds in the account to refund the contribution should it prove to be illegal or place the contribution in a separate account for this purpose;
- Keep written records noting the basis for the appearance of illegality;

¹¹ The term "solicit" means, "to ask that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value, whether [it] is to be made or provided directly, or through a conduit or intermediary." 11 CFR 110.20(a)(6) and 300.2(m).

- Note that the legality of the contribution is in question when reporting the receipt of the contribution; and
- Comply with appropriate deadlines (see sections below). 11 CFR 103.3(b)(4) and (5).

Contributions to Retire Debts

A contribution made after a particular candidate's election may only be applied to that election if it does not exceed the campaign committee's net debts outstanding¹² for the election. A contribution that does exceed net debts is considered an illegal contribution and must be handled as such (see above). A campaign committee receiving such a contribution may seek redesignation of the excessive portion. See section below. 11 CFR 110.1(b)(3)(i) and 103.3(b)(3).

Possibly Prohibited Contributions

If the committee decides to deposit a contribution that may have come from a prohibited source (instead of returning it), the committee must make at least one request to the contributor for evidence that the contribution is legal. If the contribution's legality cannot be determined, the committee must refund the contribution within 30 days of its receipt. 11 CFR 103.3(b)(1). If a committee finds that a contribution is prohibited based on evidence not available when the contribution was deposited, the committee must refund the contribution within 30 days of discovery. 11 CFR 103.3(b)(2).

Excessive Contributions

The treasurer must check committee records regularly to make sure that successive contributions from one contributor remain within the limits. 11 CFR 103.3(b). If the committee receives an excessive contribution (i.e., one that is excessive on its face or that exceeds the limits when added to previous contributions made by the same donor), the committee may deposit it and:

- Seek the contributor's **retribution** of the excessive portion of the contribution to a joint contributor; and/or
- In the case of a contribution to a candidate committee, seek the contributor's **redesignation** of the excessive portion for a different election for which the contributor has not yet exceeded the limits.

Generally, within 60 days of receiving an excessive contribution, the committee must:

- Either receive a written retribution and/or redesignation from the contributor so that the contribution is no longer excessive; or
- Refund the excessive portion of the contribution to the donor. 11 CFR 103.3(b)(3).

Under certain circumstances, a political committee may retribute and/or redesignate an undesignated, excessive contribution without obtaining advance authorization from the contributor(s). Committees may only make such presumptive redesignations or retributions within one election cycle. (See below.)

¹² Net debts outstanding are debts and obligations owed by the committee after deducting cash on hand and other assets. For further information, consult 11 CFR 110.1(b)(3).

Presumptive Reattributions

When an excessive contribution is made via written instrument with more than one individual's name on it, but only has one signature, the permissible portion will be attributed to the signer and the excessive portion may be attributed to the other individual whose name is printed on the written instrument, without obtaining a second signature. This may be done so long as the reattribution does not cause the other contributor to exceed any contribution limit. 11 CFR 110.1(k)(3)(ii)(B)(1).

Political committees employing this presumption must notify all contributors by paper mail, e-mail, fax or other written method within 60 days of the committee treasurer's receipt of the check. At the time of notification, the committee must offer the contributor who signed the check a refund of the excessive portion. 11 CFR 110.1(k)(3)(ii)(B)(2) and (3).

Presumptive Redesignations

When an individual or nonmulticandidate committee makes an excessive contribution to a candidate's authorized committee, the committee may make the presumption to redesignate the excessive portion to the general election if the contribution:

- Is made before that candidate's primary election;
- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the contributor to exceed any contribution limit.

11 CFR 110.1(b)(5)(ii)(B)(1)-(4).

The candidate committee is required to notify the contributor of the redesignation by written method, including e-mail, within 60 days of the treasurer's receipt of the contribution. Also, at the time of notification, the contributor must be offered the opportunity to request a refund. 11 CFR 110.1(b)(5)(ii)(B)(5)-(6) and 110.1(b)(5)(ii)(C)(6)-(7).

In the case of an authorized committee of a major party Presidential candidate who accepts public funding for the general election, this presumption is available only to the extent that the candidate is permitted to accept contributions to a general election legal and accounting compliance (GELAC) fund.

The presumptive redesignation rules also include a specific backward-looking provision. An undesignated, excessive contribution made after the primary, but before the general election, may be applied by presumption to the primary if the campaign committee has more net debts outstanding from the primary than the excessive portion of the contribution. The redesignation may not cause the contributor to exceed any contribution limits, and the contributor must be given notice which provides for an opportunity for a refund. 11 CFR 110.1(b)(5)(ii)(C).

*This publication provides guidance on certain aspects of federal campaign finance law. This publication is not intended to replace the law or to change its meaning, nor does this publication create or confer any rights for or on any person or bind the Federal Election Commission (Commission) or the public. The reader is encouraged also to consult the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 *et seq.*), Commission regulations (Title 11 of the Code of Federal Regulations), Commission advisory opinions, and applicable court decisions. For further information, please contact:*

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